

[*Harris v. Tennessee Valley Authority*](#), 90-ERA-9 (ALJ Nov. 21, 1990)

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U.S. Department of Labor
Office of Administrative Law Judges
525 Vine Street, Suite 900
Cincinnati, Ohio 45202

Date Issued: Nov. 21, 1990

Case No. 90-ERA-9

In the Matter of

ANN P. HARRIS
Complainant

versus

TENNESSEE VALLEY AUTHORITY
Respondent

RECOMMENDED ORDER OF DISMISSAL

This case arises under the employee protection provisions of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. SS 5851. By way of a Notice of Hearing issued on September 6, 1990, the matter was scheduled to be heard on November 27, 1990, in Knoxville, Tennessee.

On November 20, 1990, there was transmitted to this officer a Joint Motion for Dismissal, together with a Memorandum of Understanding and Agreement which incorporates the understanding of the parties as to a basis for settlement of this case. The Memorandum of Understanding and Agreement consists of five pages and is signed by Ann P. Harris, the Complainant, W. P. Boone Dougherty, counsel for Complainant, and also Dwight E. Nunn, on behalf of the Respondent. The parties jointly move for an Order recommending dismissal of this case with full prejudice.

Following due consideration of the Memorandum of

Understanding and Agreement which is incorporated herein by this reference and review pursuant to 42 U.S.C. SS 5851(b)(2)(A), I find it to be fair, adequate, and reasonable, and I believe it is in the public interest to adopt the Memorandum of Understanding and Agreement as a basis for the administrative disposition of this case. This recommendation is being made pursuant to authority conferred by 29 C.F.R. SS 18.39(b).

In view of my conclusion that the agreed administrative disposition of this case should be recommended to the Secretary for approval, IT IS ORDERED that the hearing scheduled in this matter for November 27, 1990, is hereby postponed.

RUDOLF L. JANSEN
Administrative Judge

BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES
UNITED STATES OF AMERICA
DEPARTMENT OF LABOR

CASE No. 90-ERA-9

ANN P. HARRIS
Complainant

v.

TENNESSEE VALLEY AUTHORITY
Respondent

RECOMMENDED ORDER OF DISMISSAL

The above case came on to be heard, and it appearing to the undersigned Administrative Law Judge that the parties have agreed that the matters in controversy in this proceeding have been fully conciliated by the attached agreement and the parties have further agreed that this proceeding should be dismissed with full prejudice; and the conciliation agreement having been reviewed pursuant to 42 U.S.C. § 5851(b)(2)(A) (1988) by the undersigned who deems it fair to all parties and consistent with the provisions of law;

It is hereby RECOMMENDED that the Secretary of Labor enter an order dismissing this proceeding with full prejudice.

Administrative Law Judge

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This Memorandum of Understanding and Agreement entered into this day of , 1990, by and between Ann P. Harris aid the Tennessee Valley Authority (TVA) is for the purpose of setting forth in full the terms and conditions of the agreement for the settlement of all complaints and claims of whatever nature that Ann P. Harris may have as of the date of this agreement, arising out of or related to her employment with TVA, against TVA, in any court of law, before any administrative tribunal or agency of the Federal Government or TVA. This agreement shall be subject to review by Ms. Harris' attorney and TVA for the sole purpose of assuring the legality of the form in which these terms and conditions are set forth herein but not for the purpose of reviewing the substantive content of the agreement. Ms. Harris agrees to cooperate to the extent necessary to have all legal or administrative actions against TVA dismissed or rendered moot. The consideration granted by TVA herein is for the sole purposes of settlement of all of Ms. Harris' complaints and shall not be deemed an admission of wrongdoing on the part of TVA.

Nothing in this agreement shall be construed to prohibit Ms. Harris from reporting any suspected instance of illegal activity of any nature, any nuclear safety concern, any workplace safety concern, or any public safety concern to the United States Nuclear Regulatory Commission, the United States Department of Labor or any other Federal or State governmental agency, and shall not be construed to prohibit Ms. Harris from participating in any way in any State or Federal administrative, judicial, or legislative proceeding or investigation with respect to any claims and matters nor resolved and terminated by this Memorandum of Understanding and Agreement. It is agreed that the amount set forth in to knowledge thereof.

The terms and conditions of this settlement agreement are as follows:

1. TVA agrees to promote Ms. Harris to the position of Contract Administrator, Pay Group 5, with a salary increase to the midpoint of the Pay Group 5 schedule plus any cost-of-living award for FY 1991. The promotion will be effective October 16, 1990.
2. TVA agrees to grant Ms. Harris one month of administrative leave with pay to allow for transition and acclimation.

3. TVA and Ms. Harris will develop a job description with responsibilities and duties clearly defined.

4. TVA agrees to provide an Educational Development Assignment for Ms. Harris and she agrees to participate as follows:

Ms. Harris will attend an educational institution (full time) for up to four and one-half years to obtain a Bachelor of Science/Arts degree, and/or other advanced degree. The degree and the educational institution will be mutually agreed upon between Ms. Harris and TVA (combination of a junior college and/or a four-year college). Ms. Harris will have the latitude to change the agreed-upon degree for up to two years after entering the educational institution (degree change must be approved by TVA). The beginning of the four and one-half year time period for the educational portion of this agreement will begin on the date Ms. Harris is enrolled in a junior and/or a four-year college but no later than January 15, 1991. Ms. Harris will receive full salary at the pay group rate and salary (determined in item 1) and will be reimbursed for travel from her residence to the educational institution (no per diem).

During semester breaks and other extended holidays (more than three normal work days), Ms. Harris will be allowed to schedule leave or will work with her parent organization (Materials, Contracts, and Administrative Support) as assigned on developmental short-term work assignments during the break of holiday, and said work with no way extend into or interfere with the school period. Work assignments will be at Knoxville, Chattanooga, or Watts Bar Nuclear Plant. Ms. Harris will be reimbursed travel expenses from her residence to other TVA work locations during the short-term assignments (no per diem).

Ms. Harris will receive normal cost-of-living raises awarded to employees in her pay grade during the educational-development assignment.

In the event Ms. Harris is dropped from the educational institution, or illness prevents her from attending she shall be assigned a job as a Contract Administrator at PG-5 at Watts Bar Nuclear Plant.

5. At the beginning of the senior year at the educational institution, a succession plan shall be developed and implemented for Ms. Harris as a joint effort by Ms. Harris, her parent organization (Materials, Contracts, and Administrative Support), and Nuclear Human Resource Development. Ms. Harris' job location will be at Knoxville, Chattanooga, or Watts Bar Nuclear Plant as mutually agreed upon by Ms. Harris and TVA.

6. TVA agrees to promote Ms. Harris to Pay Group 6 in accordance with the succession plan developed in item 5 upon successful completion of the educational development (award of a Bachelor of eight-percent increase in salary).

7. TVA agrees to review Ms. Harris' service evaluations issued after her appointment to the M-1 rating through September 30, 1990. Service evaluations mutually agreed upon by the TVA reviewers and Ms. Harris will be prepared and submitted for review and approval by the Vice President, Nuclear Projects, or his designated representative.

8. TVA will collect field files for Ms. Harris from her previous TVA work organizations. These field files will be destroyed.

9. A letter issued by the Watts Bar Nuclear Plant Safety Manager concerning Ms. Harris and the refusal to perform available work will be removed from her file and the letter will be destroyed.

10. TVA agrees to pay Ms. Harris' attorney an amount agreed upon in full and final settlement of all claims for attorney's fees and costs in the complaints of whatever nature filed by Ms. Harris in any court of law before any administrative tribunal or agency of the Federal Government or TVA.

11. TVA agrees to reimburse Ms. Harris for out-of-pocket documented attorney, court costs, or other fees related to the legal process incurred in connection with her complaints.

12. In addition to the considerations set forth in items I through 11 above, TVA agrees to pay Ms. Harris a sum of \$75,000 for compensatory damages and in full settlement of all complaints or claims. Payment will be made within thirty (30) days from October 16, 1990. agreements between the parties. The parties agree to exert good faith efforts with regard to all such matters. In the event any of the parties fail to energetically exert good faith efforts to achieve the goals of this agreement, then such will provide to the other party a remedy for enforcement and/or damages for breach of contract.

IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

TENNESSEE VALLEY AUTHORITY

BY:

Dwight E. Nunn

By:

Ann P. Harris

I hereby consent to this agreement
and its execution by Ann P. Harris

Dated:

By:
Attorney for Ann P. Harris

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